

October 8, 2008

DECISION AND ORDER

OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: Lenard Trimmer
Date of Filing: September 9, 2008
Case Number: TFA-0272

This Decision concerns an Appeal that Lenard Trimmer filed in response to determinations that were issued to him by the Department of Energy's (DOE) Office of Health, Safety and Security (OHSS) and National Nuclear Security Administration Albuquerque Service Center (NNSA). In those determinations, OHSS and NNSA replied to a request for documents that Mr. Trimmer submitted under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the Department of Energy (DOE) in 10 C.F.R. Part 1004.¹ This Appeal, if granted, would require that we remand this matter to NNSA for another search.

In his request, Mr. Trimmer sought copies of H-Division Monthly Progress Reports for September 21-October 20, 1963; January 21-February 20, 1964; March 21-June 20, 1964; and November 21-December 20, 1964; copies of H-Division Quarterly Progress Reports for July-September 1968, October-December 1970, July-September 1972 and October-December 1972; and copies of H-Division Annual Progress Reports for 1963 and 1964. These documents concern radiological monitoring that was conducted at Los Alamos National Laboratories (LANL) in connection with the Human Radiation Experiments that were performed by predecessor agencies of the DOE. On December 19, 2007, NNSA issued a determination in response to Mr. Trimmer's request. In this determination, NNSA stated that it had been informed by LANL that the documents Mr. Trimmer requested had already been released to the public, and could be accessed through the internet at one or more of four specified web sites. NNSA also referred the request to DOE Headquarters and, ultimately, to OHSS. On August 15, 2008, OHSS issued a determination stating that it had searched its files and had been unable to identify any records that are responsive to Mr. Trimmer's request.

In his Appeal, Mr. Trimmer contests the adequacy of NNSA's search for responsive documents. He argues that, in his original FOIA request and in subsequent communications with NNSA, he provided specific locations in LANL's archives at which he believed the requested records

^{1/} The FOIA generally requires that documents held by federal agencies be released to the public upon request. FOIA Decisions issued by the Office of Hearings and Appeals (OHA) after November 19, 1996, may be accessed at <http://www.oha.doe/foia1.asp>.